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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,866	10/30/2003	Puthukode G. Ramachandran	AUS9200030625US1	9754
35525	7590	04/16/2007		
IBM CORP (YA)			EXAMINER	
C/O YEE & ASSOCIATES PC			DAO, THUY CHAN	
P.O. BOX 802333				
DALLAS, TX 75380			ART UNIT	PAPER NUMBER
			2192	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/697,866	Applicant(s) RAMACHANDRAN ET AL.	
	Examiner Thuy Dao	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,11-14,16 and 17 is/are pending in the application.
 4a) Of the above claim(s) 3,10 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11-14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/05/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed on January 18, 2007.
2. Claims 1-2, 4-9, 11-14, and 16-17 have been examined.

Response to Amendments

3. Per Applicants' request, claims 1, 6, 8, and 13 have been amended and claims 3, 10, and 15 have been canceled.
4. The objection to the specification is withdrawn in view of Applicants' amendments.
5. The objection to the claims 3 and 6 is withdrawn in view of Applicants' amendments.
6. The 35 USC §101 rejection over claims 8-9 and 11-12 is withdrawn in view of Applicants' arguments.

Information Disclosure Statement

7. The Office acknowledges receipt of the Information Disclosure Statement filed on March 5, 2007. It has been placed in the application file and the information referred to therein has been considered by the examiner.

Specification

8. The specification is objected to because of minor informalities: all acronyms should be spelled out at the first appearance in the specification (e.g., page 11, PDA; page 14, JNDI, API, IPR; page 16, ISMP ...).

Appropriate correction is required.

Response to Arguments

9. The Applicants are thanked for a thorough reply. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections – 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. As set forth in the previous Office Action mailed October 23, 2006, claims 13-14 and 16-17 are directed to a computer program product in a computer readable medium, which may include transmission-type media using "*radio frequency and light wave transmissions*" (specification, page 23, lines 19-22).

A computer readable medium product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of Sec. 101.

See Annex IV (c) Electro-Magnetic Signals, Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (signed October 26, 2005) - OG Cite: 1300 OG 142. Online version can be retrieved at <<http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.htm>>.

Under the principles of compact prosecution, claims 13-14 and 16-17 have been examined as the Examiner anticipates the claims will be amended to obviate these 35 USC § 101 issues. For example (for proposal only), - -A computer program product in a computer [[readable]] recordable-type medium ... - - as disclosed in specification, page 23, lines 17-18.

Claim Rejections – 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1-2, 4-9, 11-14, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,751,794 to McCaleb et al. (art made of record, hereinafter "McCaleb").

Claim 1:

McCaleb discloses a data processing system, a computer program product, and a *method in a data processing system for installing software in a network data processing system* (e.g., FIG. 6-7, col.6: 58 – col.7: 67), *the method comprising:*

detecting an event in the network data processing system, wherein the event indicates that a software module is to be installed in a set of data processing systems in the network data processing system, wherein the set of data processing systems is at least one data processing system (e.g., FIG. 2, block 205, col.4: 10-18; FIG. 1, col.3: 59 – col.4: 9);

discovering a configuration of each data processing system in the set of data processing systems (e.g., FIG. 2, block 210, col.4: 19-44);

creating a set of instructions using a knowledge base of prior installations, wherein the set of instructions is tailored for each data processing system in the set of data processing systems based on the configuration for the each data processing system in the set of data processing systems (e.g., FIG. 3, blocks 305-325, col.4: 45 – col.5: 50); and

sending the set of instructions for the software module to be installed to the set of data processing systems (e.g., FIG. 3, blocks 325-340, col.5: 51 – col.6: 18).

Claim 2:

The rejection of claim 1 is incorporated. McCaleb also discloses *a future time to request the software module from an installation server* (e.g., col.4: 11-18; col.7: 35-46).

Claim 4:

The rejection of claim 1 is incorporated. McCaleb also discloses *the knowledge base of prior installations is located in an installed product registry* (e.g., col.5: 1-10; col.6: 1-6).

Claim 5:

The rejection of claim 1 is incorporated. McCaleb also discloses *the set of instructions is executed at a selected time on each data processing system in the set of data processing systems to pull the software module from a source on the network data processing system and install the software module on the set of data processing systems* (e.g., col.4: 11-18; col.7: 35-46).

Claim 6:

The rejection of claim 1 is incorporated. McCaleb also discloses *the knowledge base of prior installations includes a mapping between user identities and prior user installation configuration data* (e.g., FIG. 2, unique identification of Client Systems 110 and 115, col.4: 11-44; FIG. 1, mapping Client Systems 1 and 2 with configuration data in Client Database 125, col.3: 59 – col.4: 9).

Claim 7:

Claim 7 recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim, it also teaches all of the limitations of claim 7.

Claims 8-9 and 11-12:

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Claims 8-9 and 11-12 are data processing system versions, which recite the same limitations as those of claims 1-2 and 4-5, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 8-9 and 11-12.

Claims 13-14 and 16-17:

Claims 13-14 and 16-17 are computer program product versions, which recite the same limitations as those of claims 1-2 and 4-5, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claims, it also teaches all of the limitations of claims 13-14 and 16-17.

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1, 7-8, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,990,660 to Moshir et al. (art made of record, hereinafter "Moshir").

Claim 1:

Moshir discloses a data processing system, a computer program product, and *a method in a data processing system for installing software in a network data processing system (e.g., FIG. 1, col.6: 19-43, col.7: 12-67; FIG. 2, col.3: 41 – col.4: 54), the method comprising:*

detecting an event in the network data processing system, wherein the event indicates that a software module is to be installed in a set of data processing systems in the network data processing system, wherein the set of data processing

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systems is at least one data processing system (e.g., FIG. 8, blocks 800-804, col.12: 41-67);

discovering a configuration of each data processing system in the set of data processing systems (e.g., FIG. 8, blocks 806-818, col.13: 3-32; FIG. 3, block 332-338);

creating a set of instructions using a knowledge base of prior installations, wherein the set of instructions is tailored for each data processing system in the set of data processing systems based on the configuration for the each data processing system in the set of data processing systems (e.g., FIG. 8, blocks 820-822, col.13: 26-37; col.15: 38-61); and

sending the set of instructions for the software module to be installed to the set of data processing systems (e.g., FIG. 6-7, col.19: 49-67).

Claims 7-8 and 13:

Claims 7-8 and 13 recite the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the reference teaches all of the limitations of the above claim, it also teaches all of the limitations of claims 7-8 and 13.

Conclusion

15. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 6:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

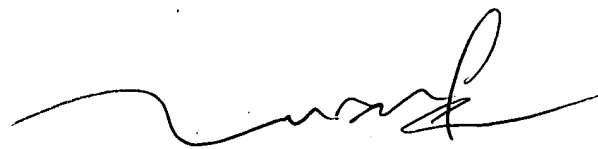
The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN DAM
SUPERVISORY PATENT EXAMINER